

Attorneys for Defendant:
VALLEY TRANSPORTATION, INC.; RODNEY
HEINTZ; and DEBORAH SIMPSON

* * *

Defendants.

[Jurisdiction pursuant to Family and Medical Leave 29 USC §§2601, et seq., Emergency Paid Sick Leave Act §§ 5101, et seq., and FLSA, §15(a)(3)]

PROOF OF SERVICE

My business address is 7522 N. Colonial Avenue, Suite 105, Fresno, California 93711. I am employed in Fresno County, California. I am over the age of 18 years and am not a party to this case.

On the date indicated below, I served the foregoing document described as

COPY OF STATE COURT FILE REGARDING NOTICE OF REMOVAL

on all interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

Rodney Mesriani, Esq.
Cory Gould, Esq.
Mesriani Law Group
510 Arizona Avenue
Santa Monica, California 90401
Ph: (310) 826-6300
Fax: (310) 820-1258
Email: cory@mesriani.com

Attorney for Plaintiff Andrew Mendoza

____ (BY FIRST CLASS MAIL) I am readily familiar with the business' practice for collection and processing of correspondence for mailing, and that correspondence, with postage thereon fully prepaid, will be deposited with the United States Postal Service on the date noted below in the ordinary course of business, at Fresno, California.

X

(BY ELECTRONIC TRANSMISSION – by CM/ECF System) Notice of this filing will be sent by e-mail to all parties and the above-specified persons by operation of the Court's electronic filing CM/ECF system, which will send electronic notification of such filing to all counsel/parties.

EXECUTED ON December 17, 2021, at Fresno, California.

X

(FEDERAL) I declare that I am employed in the office of a member of the State of this Court at whose direction the service was made. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

/s/ Kathy Giambalvo

KATHY GIAMBALVO

EXHIBIT “1”

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Cory D. Gould (SBN 329550) Mesriani Law Group 510 Arizona Ave, Santa Monica, CA 90401		FOR COURT USE ONLY E-FILED 10/25/2021 10:35 AM Superior Court of California County of Fresno By: J Nelson, Deputy	
TELEPHONE NO.: 310-826-6300 FAX NO. (Optional): ATTORNEY FOR (Name): Andrew Mendoza			
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 1130 O Street Fresno, CA 93721 MAILING ADDRESS: 1130 O Street Fresno, CA 93721 CITY AND ZIP CODE: Fresno, 93721 BRANCH NAME: B.F. Sisk Courthouse			
CASE NAME: Andrew Mendoza v. Valley Transportation, Inc.; et al			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: 21CECG03163	
		JUDGE: DEPT.:	

Items 1-6 below must be completed (see instructions on page 2).

1. Check **one** box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input checked="" type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input type="checkbox"/> Substantial amount of documentary evidence | d. <input type="checkbox"/> Large number of witnesses
e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
|--|--|
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): 13
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: October 22, 2021

Cory D. Gould

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the Civil Case Cover Sheet contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the Civil Case Cover Sheet to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease
Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition

EXHIBIT “2”

SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

VALLEY TRANSPORTATION, INC., a California Corporation; RODNEY HEINTZ, an Individual; DEBORAH SIMPSON, an Individual; and DOES 1 through 25, Inclusive.

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ANDREW MENDOZA, an Individual

E-FILED
10/25/2021
Superior Court of California
County of Fresno
By: J Nelson, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): B.F. Sisk Courthouse- Fresno Country Sup. Court
1130 O Street
Fresno, CA 93721-2220

CASE NUMBER: (Número del Caso):
21CECG03163

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Cory D. Gould | 510 Arizona Ave., Santa Monica, CA 90401 | 310-826-6300

DATE: October 22, 2021
(Fecha)

10/25/2021

Clerk, by
(Secretario)

J. Nelson, Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010).)



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):
4. ☐ by personal delivery on (date)

Page 1 of 1

EXHIBIT “3”

RODNEY MESRIANI (SBN 184875)
CORY GOULD (SBN 329550)
MESRIANI LAW GROUP
A PROFESSIONAL LAW CORPORATION
510 Arizona Avenue,
Santa Monica, CA 90401
Tel: (310) 826-6300
Fax: (310) 820-1258
Attorneys for Plaintiff, ANDREW MENDOZA

E-FILED
10/25/2021 10:35 AM
Superior Court of California
County of Fresno
By: J Nelson, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF FRESNO**

ANDREW MENDOZA, an Individual;

Plaintiff,

v.

VALLEY TRANSPORTATION, INC., a
California Corporation; RODNEY
HEINTZ, an Individual; DEBORAH
SIMPSON, an Individual; and DOES 1
through 25, Inclusive,

Defendants.

CASE NO. 21CECG03163

COMPLAINT FOR:

- 1. AGE DISCRIMINATION;**
- 2. AGE HARASSMENT;**
- 3. DISABILITY DISCRIMINATION;**
- 4. DISABILITY HARASSMENT;**
- 5. FAILURE TO ACCOMMODATE DISABILITY;**
- 6. FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS OF ACCOMMODATION OF A DISABILITY;**
- 7. FAILURE TO PREVENT, CORRECT, AND REMEDY DISCRIMINATION AND HARASSMENT;**
- 8. RETALIATION IN VIOLATION OF EMERGENCY PAID SICK LEAVE ACT §§ 5101, *ET SEQ.*;**
- 9. FAMILY AND MEDICAL LEAVE DISCRIMINATION AND RETALIATION;**
- 10. RETALIATION FOR COMPLAINTS OF DISCRIMINATION AND HARASSMENT;**
- 11. WRONGFUL TERMINATION;**
- 12. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; AND**
- 13. NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS.**

DEMAND FOR JURY TRIAL

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1 Plaintiff ANDREW MENDOZA, by and through his counsel, claims and alleges as
2 follows:

3 **SUMMARY**

4 1. Plaintiff ANDREW MENDOZA (hereinafter "Plaintiff") is suing his former
5 employer, Defendant VALLEY TRANSPORTATION, INC. (hereinafter "Defendant VTI"), and
6 its managerial and supervisory employees, including Defendant RODNEY HEINTZ (hereinafter
7 "Defendant HEINTZ"), Defendant DEBORAH SIMPSON (hereinafter "Defendant SIMPSON")
8 (collectively as "Defendants"), for wrongful termination, age and disability discrimination,
9 harassment based on age and disability, retaliation, and intentional infliction of emotional distress,
10 among others.

11 2. Throughout his employment at Defendant VTI, Plaintiff was subjected to
12 discriminatory and harassing behavior by reason of his age and disability. Plaintiff was harassed,
13 singled out, and differentially treated by Defendants, and each of them, in comparison to similarly
14 situated younger and non-disabled employees.

15 3. Plaintiff brings this action against Defendants for economic, non-economic,
16 compensatory, and punitive damages pursuant to Civil Code § 3294, pre-judgment interest
17 pursuant to Code of Civil Procedure § 3291, and costs and reasonable attorneys' fees pursuant to
18 Government Code § 12965(b) and Code of Civil Procedure section 1021.5.

19 **PARTIES**

20 4. Plaintiff is a sixty (60) year old individual, who, at all times relevant to this action,
21 resided in the County of Kings, State of California.

22 5. Plaintiff is informed, believes and thereupon alleges that Defendant VTI is a
23 California Corporation, lawfully doing substantial business in the County of Fresno, State of
24 California and was Plaintiff's employers at all times relevant herein.

25 6. Plaintiff is informed and believes, and thereupon alleges, that Defendant HEINTZ
26 is the co-owner of Defendant VTI, and, based upon information and belief, is a resident of Fresno,
27 State of California, at all times relevant herein.

28 7. Plaintiff is informed and believes, and thereupon alleges, that Defendant SIMPSON

1 is the co-owner at Defendant VTI, and, based upon information and belief, is a resident of Fresno,
2 State of California, at all times relevant herein.

3 8. Plaintiff is further informed and believes and thereon alleges that Individual
4 Defendants HEINTZ and SIMPSON were and at all times mentioned herein did completely
5 control, dominate, manage and/or operate Defendant VTI as their alter ego, such that any
6 separateness between them has ceased to exist and recognition of the form of Defendant VTI would
7 operate as a sham because it is the alter ego of Defendants HEINTZ and SIMPSON to wit:

8 a. At all relevant times, there existed a unity of interest and ownership between the
9 two such that any individuality and separateness between them has ceased. Because
10 either the company was inadequately capitalized or it was a mere shell,
11 instrumentality and conduit through which Defendants HEINTZ and SIMPSON
12 carried on their business, exercising complete control and dominance over such
13 business that any individuality and separateness did not exist, assets were
14 commingled or Defendants HEINTZ and SIMPSON used such corporate assets for
15 their personal use, or caused the corporate assets to be transferred to them without
16 adequate consideration, withdrew funds from the bank accounts for their personal
17 use and/or intermingled assets, liabilities, and obligations between them..

18 b. It would sanction a fraud or promote injustice to uphold the corporate entity of
19 Defendant VTI and allow Defendants HEINTZ and SIMPSON to escape personal
20 liability for its debts.

21 9. Plaintiff is ignorant of the true names and capacities, whether individual, corporate,
22 associate or otherwise, of the Defendants sued herein under fictitious names Does 1 through 25,
23 inclusive, and for that reason sues said Defendants, and each of them, by such fictitious names.
24 Plaintiff is informed, believes, and thereupon alleges that each of the Defendant Does 1 through
25 25, inclusive, is and was in some manner responsible for, participated in, or contributed to the
26 matters and things of which Plaintiff complains herein, and in some fashion, has legal
27 responsibility therefore. When Plaintiff ascertains the names and capacities of the fictitiously
28 named Defendant Does 1 through 25, inclusive, Plaintiff will seek leave to amend this Complaint

1 to set forth such facts.

2 10. Plaintiff is informed, believes, and there upon alleges that each Defendant is, and at
3 all times relevant herein was, the agent of his, or its co-defendants, and in committing the acts
4 alleged herein, was acting within the scope of his, or its authority as such agent, and with the
5 knowledge, permission, and consent of his, or its co-defendants.

6 **JURISDICTION AND VENUE**

7 11. Venue is proper in this judicial district, pursuant to California Code of Civil
8 Procedure § 395(a). Defendants reside and/or transact business in the County of Fresno, and are
9 within the jurisdiction of this Court for purposes of service of process.

10 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

11 12. Plaintiff timely filed a charge of discrimination with the California Department of
12 Fair Employment and Housing (“DFEH”). The DFEH issued a Right-to-Sue Notice. Accordingly,
13 Plaintiff has timely exhausted his administrative remedies. A true-and-correct copy of Plaintiff’s
14 Right-to-Sue Notice is attached to this complaint as Exhibit A.

15 13. Any and all other prerequisites to the filing of this suit have been met.

16 **FACTUAL ALLEGATIONS**

17 14. By this reference, Plaintiff alleges and incorporates herein each and every
18 allegation set forth in all previous paragraphs of the Complaint.

19 15. In or around April 2015, Plaintiff began working for Defendant VTI as a Driver.

20 16. Throughout his employment at Defendant VTI, Plaintiff performed his duties
21 diligently and responsibly.

22 17. On or about August 10, 2020, after working a 10-hour shift, Plaintiff started
23 experiencing flu-like symptoms such as weakness, dizziness, fever, and difficulty breathing.
24 Plaintiff immediately called into Valley Transportation’s office and spoke with Defendant Heintz
25 and informed him about his condition. Plaintiff advised Defendant Heintz that he would not be
26 able to work for his next shift. Defendant Heintz was understanding and instructed Plaintiff to take
27 care of himself and take a personal time off (PTO) day.

28 18. The following day, on August 11, 2020, Plaintiff’s condition worsened. Plaintiff

1 again contacted Defendant Heintz and told him he was feeling worse. Plaintiff requested time off
2 as he was still feeling unwell.

3 19. On August 12, 2020, Plaintiff again called Defendant Heintz and requested time off
4 due to feeling very unwell still.

5 20. On or about August 13, 2020, as Plaintiff continued to suffer from flu-like
6 symptoms, he contacted Defendant Heintz and requested personal time off.

7 21. On or about August 14, 2020, Plaintiff was rushed to the Emergency Room for
8 medical treatment, where Plaintiff underwent COVID-19 tests.

9 22. Subsequently, Plaintiff was told that he had a mass on his right kidney and lungs.
10 Later, Plaintiff's doctors confirmed that it was cancer. Thereafter, Plaintiff then submitted a copy
11 of his medical records to the Defendant, along with a note from Adventist Health certifying
12 Plaintiff's ability to return to work on August 18, 2020.

13 23. On or about August 16, 2020, Plaintiff was informed that, along with his cancer
14 diagnosis, he tested positive for COVID-19. Plaintiff was subsequently advised to quarantine until
15 August 23, 2020.

16 24. The following day, on August 17, 2020, Plaintiff, through his health provider,
17 submitted a medical leave of absence to the Defendants until August 24, 2020, pending his
18 COVID-19 test results.

19 25. Later the same day, Plaintiff contacted Defendant Simpson and advised her about
20 his cancer and COVID-19 infection.

21 26. While on medical leave, Plaintiff repeatedly communicated with Defendants while
22 inquiring about any company programs and/or assistance for his medical situation. Plaintiff
23 specifically asked for paid medical leave and/or family medical leave. However, Defendant
24 Simpson only responded hollowly that Plaintiff was not eligible for any medical leave.

25 27. On or about August 28, 2020, Plaintiff's doctor placed him on a medical leave until
26 October 5, 2020.

27 28. On or about September 4, 2020, Defendants proceeded to terminate Plaintiff's
28 employment purportedly because he was "not eligible for leave under federal or state laws."

29. Defendants' proffered reason of Plaintiff's termination was nothing but a pretext for age and disability discrimination.

30. Plaintiff was 60 years of age at the time of his termination.

31. Ultimately, Plaintiff's employment with Defendant VTI was unlawfully terminated without real, substantial, and compelling reason.

32. Due to Plaintiff's sudden and wrongful termination, Plaintiff has suffered, and continues to suffer, severe emotional distress, including, but not limited to, emotional distress, anxiety, and mental suffering.

FIRST CAUSE OF ACTION

AGE DISCRIMINATION AGAINST DEFENDANT VTI AND DOES 1 – 25

33. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

34. Plaintiff was at all times hereto an "employee" within the meaning of California Government Code § 12926(c) and California Government Code § 12940(a) and (c), which prohibit age discrimination in employment.

35. Defendant VTI was at all material times an "employer" as defined by California Government Code § 12926(d) and within the meaning of California Government Code § 12940(a) and (c) and, as such, was barred from discriminating or retaliating in employment decisions on the basis of age as set forth in California Government Code § 12940.

36. Defendant VTI discriminated against Plaintiff on the basis of his age in violation of California Government Code § 12940(a) and (c), Article I of the California Constitution and related statutes by engaging in the course of conduct more fully set forth in the General Allegations stated above.

37. As a result of Defendant's unlawful discrimination against Plaintiff, Plaintiff has suffered and continues to suffer (a) substantial humiliation, serious mental anguish, and emotional and physical distress; and (b) loss of past and future earnings, and employment benefits and opportunities, all on account of which Plaintiff is entitled to compensatory damages. The exact amount and nature of such damages exceeds the jurisdictional limits of this court, but are presently

1 unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such
2 information, or prove the same at the time of trial.

3 38. As more fully set forth above, the age discrimination by Defendant VTI was
4 committed intentionally, maliciously, wantonly, and oppressively, with a conscious disregard for
5 Plaintiff's rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the
6 injuries sustained by Plaintiff, which acts amounted to oppression and malice, as described in
7 California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in
8 an amount sufficient to punish and make an example out of Defendant.

9 **SECOND CAUSE OF ACTION**

10 **AGE HARASSMENT AGAINST ALL DEFENDANTS**

11 39. Plaintiff alleges and incorporates herein by this reference each and every allegation
12 set forth in all previous paragraphs of the Complaint.

13 40. Plaintiff was at all times hereto an "employee" within the meaning of California
14 Government Code § 12926(c) and California Government Code § 12940(a) and (c), which prohibit
15 age harassment. Age harassment within the meaning of those sections, includes harassment and
16 failure to take all reasonable steps necessary to prevent discrimination or harassment on the basis
17 of age.

18 41. Defendant VTI was at all material times an "employer" as defined by California
19 Government Code § 12926(d) and within the meaning of California Government Code § 12940(a)
20 and (c) and, as such, was barred from harassing or retaliating in employment decisions on the basis
21 of age as set forth in California Government Code § 12940.

22 42. Individual Defendants HEINTZ and SIMPSON were managerial and/or
23 supervisory employees of Defendant VTI who had a duty to Plaintiff to refrain from age
24 discrimination and harassment and to take all reasonable steps to prevent and correct unlawful age
25 discrimination and harassment in the workplace.

26 43. Defendants harassed Plaintiff on the basis of age, in violation of California
27 Government Code § 12940(a) and (c), Article I of the California Constitution and related statutes
28 by engaging in the course of conduct more fully set forth in the General Allegations stated above.

1 44. As a result of Defendants' unlawful harassment of Plaintiff, Plaintiff has suffered
2 and continues to suffer (a) substantial humiliation, serious mental anguish, and emotional and
3 physical distress; and (b) loss of past and future earnings, and employment benefits and
4 opportunities, all on account of which Plaintiff is entitled to compensatory damages. The exact
5 amount and nature of such damages exceeds the jurisdictional limits of this court, but are presently
6 unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such
7 information, or will prove the same at the time of trial.

8 45. As more fully set forth above, the age harassment by Defendants was committed
9 intentionally, maliciously, wantonly, and oppressively, with a conscious disregard for Plaintiff's
10 rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries
11 sustained by Plaintiff, which acts amounted to oppression and malice, as described in California
12 Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in an amount
13 sufficient to punish and make an example out of Defendants

14 **THIRD CAUSE OF ACTION**

15 **DISABILITY DISCRIMINATION AGAINST DEFENDANT VTI AND DOES 1 – 25**

16 46. Plaintiff alleges and incorporates herein by this reference each and every allegation
17 set forth in all previous paragraphs of the Complaint as if fully set forth herein.

18 47. Plaintiff was at all times hereto an "employee" within the meaning of California
19 Government Code § 12926(c) and California Government Code § 12940(a) and (c), which prohibit
20 disability discrimination in employment.

21 48. Defendant VTI was at all material times an "employer" as defined by California
22 Government Code § 12926(d) and within the meaning of California Government Code § 12940(a)
23 and (c) and, as such, was barred from discriminating in employment decisions on the basis of
24 disability, as set forth in California Government Code § 12940.

25 49. Defendant VTI has discriminated against Plaintiff on the basis of his disability in
26 violation of California Government Code § 12940(a) and (c), Article I of the California
27 Constitution and related statutes, by engaging in the course of conduct more fully set forth in the
28 General Allegations and all paragraphs stated above.

50. As a result of Defendant VTI'S unlawful discrimination against Plaintiff, Plaintiff has suffered and continues to suffer (a) substantial humiliation, serious mental anguish, emotional and physical distress; and (b) loss of past and future earnings, and employment benefits and opportunities, on account of which Plaintiff is entitled to compensatory damages. The exact amount and nature of such damages exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such information, or will prove the same at the time of trial.

51. As more fully set forth above, the disability discrimination by Defendant VTI was committed intentionally, maliciously, wantonly, and oppressively, with a conscious disregard for Plaintiff's rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted to oppression and malice, as described in California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in an amount sufficient to punish and make an example out of Defendant.

FOURTH CAUSE OF ACTION

DISABILITY HARASSMENT AGAINST ALL DEFENDANTS

52. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint.

53. Plaintiff was at all times hereto an “employee” within the meaning of California Government Code § 12926(c) and California Government Code § 12940(a) and (c), which prohibit disability harassment in employment.

54. Defendant VTI was at all material times an “employer” within the meaning of California Government Code § 12926(d) and California Government Code § 12940(a) and (c) and, as such, was barred from harassing and discriminating in employment decisions on the basis of disability possessed or thought to be possessed by an employee, as set forth in California Government Code § 12940.20.

55. Individual Defendants HEINTZ and SIMPSON were managerial and/or supervisory employees of Defendant VTI who had a duty to Plaintiff to refrain from disability

1 discrimination and harassment and to take all reasonable steps to prevent and correct unlawful
2 age discrimination and harassment in the workplace.

3 56. Defendants harassed Plaintiff on the basis of disability, in violation of California
4 Government Code § 12940(a) and (c), Article I of the California Constitution and related statutes
5 by engaging in the course of conduct more fully set forth in the General Allegations stated above.

6 57. As a proximate result of Defendants' harassment of Plaintiff, Plaintiff has suffered
7 (a) humiliation, serious mental anguish, and emotional and physical distress; and (b) loss of past
8 and future earnings and employment benefits and opportunities; all on account of which Plaintiff
9 is entitled to compensatory damages. The amount and nature of such damages exceed the
10 jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave
11 to amend this Complaint upon ascertaining such information, or will prove the same at the time of
12 trial.

13 58. As more fully set forth above, the disability harassment by Defendant was
14 committed intentionally, maliciously, wantonly, and oppressively, with a conscious disregard for
15 Plaintiff's rights and with the intent to vex, injure, punish, and annoy Plaintiff so as to cause the
16 injuries sustained by Plaintiff. Such acts amounted to oppression and malice, as described in
17 California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in
18 an amount sufficient to punish and make an example out of Defendants.

19 **FIFTH CAUSE OF ACTION**

20 **FAILURE TO ACCOMMODATE DISABILITY AGAINST DEFENDANT VTI AND**

21 **DOES 1 – 25**

22 59. Plaintiff alleges and incorporates herein by this reference each and every allegation
23 set forth in all previous paragraphs of the Complaint.

24 60. Plaintiff at all times hereto was an "employee" within the meaning of California
25 Government Code § 12926(c) and California Government Code §§12940 (a) and (c), which
26 prohibit disability/medical condition harassment/discrimination in employment.

27 61. Defendant VTI was at all material times an "employer" within the meaning of
28 California Government Code §12926(d) and California Government Code §§12940(a) and (c),

1 and, as such, was barred from harassing/discriminating against Plaintiff on the basis of disability,
2 perceived disability, or medical condition possessed or thought to be possessed by an employee,
3 as set forth in California Government Code §12940.

4 62. At the time of Plaintiff's employment with Defendant VTI, he was suffering from
5 a condition that substantially limits his major life activities.

6 63. Despite having knowledge of Plaintiff's condition, Defendant VTI failed to provide
7 Plaintiff with a reasonable accommodation for the above condition.

8 64. As a proximate result of Defendant VTI'S failure to accommodate Plaintiff's
9 known health conditions, Plaintiff has suffered (a) humiliation, serious mental anguish, and
10 emotional and physical distress; and (b) loss of past and future earnings, and employment benefits
11 and opportunities; all on account of which Plaintiff is entitled to compensatory damages. The
12 amount and nature of such damages exceed the jurisdictional limits of this court, but are presently
13 unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such
14 information, or will prove the same at the time of trial.

15 65. As more fully set forth above, Defendant VTI's failure to accommodate Plaintiff's
16 known serious health conditions was committed intentionally, maliciously, wantonly, and
17 oppressively, with a conscious disregard of Plaintiff's rights and with the intent to vex, injure,
18 punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted
19 to oppression and malice, as described in California Civil Code § 3294. Plaintiff is therefore
20 entitled to punitive or exemplary damages in an amount sufficient to punish and make an example
21 out of Defendant.

22 SIXTH CAUSE OF ACTION

23 **FAILURE TO ENGAGE IN THE INTERACTIVE PROCESS OF ACCOMMODATION** 24 **OF A DISABILITY AGAINST DEFENDANT VTI AND DOES 1 – 25**

25 66. Plaintiff alleges and incorporates herein by this reference each and every allegation
26 set forth in all previous paragraphs of the Complaint.

27 67. Plaintiff was at all times hereto an "employee" within the meaning of California
28 Government Code § 12926(c) and California Government Code §§12940(a) and (c), which

1 prohibit disability/medical condition and harassment/discrimination in employment.

2 68. Defendant VTI was at all material times an “employer” within the meaning of
3 California Government Code §12926(d) and California Government Code § 12940(a) and (c) and,
4 as such, was barred from harassment/discrimination of Plaintiff on the basis of disability, perceived
5 disability, or medical condition possessed or thought to be possessed by an employee, as set forth
6 in California Government Code §12940.

7 69. At the time of Plaintiff’s employment with Defendant VTI, he was suffering from
8 a condition that substantially limits his major life activities.

9 70. Despite having notice of Plaintiff’s condition, and notice of Plaintiff’s request for
10 a reasonable accommodation, Defendant VTI failed to engage in a timely, good faith, interactive
11 process with Plaintiff to determine effective reasonable accommodations in violation of California
12 Government Code § 12940(n).

13 71. As a result of Defendant VTI’ failure to engage in the interactive process of
14 accommodation of his known disabilities, Plaintiff has suffered and continues to suffer (a)
15 substantial humiliation, serious mental anguish, and emotional and physical distress; and (b) loss
16 of past and future earnings, and employment benefits and opportunities, on account of which
17 Plaintiff is entitled to compensatory damages. The exact amount and nature of such damages
18 exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either
19 seek leave to amend this Complaint upon ascertaining such information, or will prove the same at
20 the time of trial.

21 72. As more fully set forth above, Defendant VTI’S failure to engage in the interactive
22 process to accommodate Plaintiff’s known disabilities was committed intentionally, maliciously,
23 wantonly, and oppressively, with a conscious disregard for Plaintiff’s rights and with the intent to
24 vex, injure, punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts
25 amounted to oppression and malice, as described in California Civil Code § 3294. Plaintiff is
26 therefore entitled to punitive or exemplary damages in an amount sufficient to punish and make
27 an example out of Defendant.

SEVENTH CAUSE OF ACTION

**FAILURE TO PREVENT, CORRECT, AND/OR REMEDY DISCRIMINATION AND
HARASSMENT AGAINST DEFENDANT VTI AND DOES 1 – 25**

73. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint.

74. Defendant VTI failed to take all reasonable steps to prevent Plaintiff's harassment from occurring, in violation of California Government Code § 12940(k), by engaging in the course of conduct set forth in the General Allegations and all paragraphs stated above, amongst other things.

75. Specifically, Defendant VTI failed to take any meaningful preventative action against those managers, supervisors and employees who were harassing Plaintiff or enabling others to discriminate against and harass Plaintiff. If Defendant VTI has a written policy addressing the issue of age and disability discrimination and harassment, the policy is not enforced and is consistently disregarded.

76. As a result of Defendant VTI'S failure to prevent the unlawful harassment of Plaintiff, Plaintiff has suffered and continues to suffer (a) substantial humiliation, serious mental anguish, emotional and physical distress, (b) loss of past and future earnings, and employment benefits and opportunities, which Plaintiff is entitled to as compensatory damages. The exact amount and nature of such damages exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such information or will prove the same at the time of trial.

77. Defendant VTI failed to take all reasonable steps to correct and remedy the harassment of Plaintiff, in violation of California Government Code § 12940(j), by engaging in the course of conduct set forth in the General Allegations and all paragraphs stated above, amongst other things.

78. Specifically, during the course of this misconduct, Defendant VTI failed to take immediate and appropriate corrective action to remedy the discrimination of Plaintiff by employees who were harassing Plaintiff or enabling others to harass Plaintiff.

79. As a result of Defendant VTI'S failure to correct or remedy the unlawful discrimination and harassment of Plaintiff, Plaintiff has suffered and continues to suffer from (a) substantial humiliation, serious mental anguish, emotional and physical distress, (b) loss of past and future earnings, employment benefits and opportunities Plaintiff is entitled to as compensatory damages. The exact amount and nature of such damages exceed the jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint upon ascertaining such information or will prove the same at the time of trial.

80. As more fully set forth above, Defendant VTI's failure to prevent, correct, and/or remedy the unlawful discrimination and harassment was intentional, malicious, wanton, oppressive and fraudulent, with conscious disregard for Plaintiff's rights and with the intent to vex, injure, punish and annoy Plaintiff so as to cause the injuries sustained by Plaintiff, within the meaning of California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary damages in an amount sufficient to punish and make an example out of Defendant.

EIGHTH CAUSE OF ACTION

**RETALIATION IN VIOLATION OF EMERGENCY PAID SICK LEAVE ACT §§ 5101,
ET SEQ. AGAINST DEFENDANT VTI AND DOES 1 – 25**

81. Plaintiff re-alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

82. Plaintiff alleges and incorporates herein by this reference each and every allegation set forth in all previous paragraphs of the Complaint.

83. Under the Families First Coronavirus Response Act ("FFCRA"), and more specifically Emergency Paid Sick Leave Act §§ 5101 ("EPSLA"), employers are required to provide paid sick leave to employees who are unable to work for six reasons having to do with COVID-19; where the employee (1) is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (3) is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; (4) is caring for an individual who is subject to an order as described in (1), or who has been advised as described in (2); (5) is caring for his son or daughter whose school or

1 place of care has been closed or whose child care provider is unavailable due to COVID-19 related
2 reasons; or (6) is experiencing any other substantially similar condition specified by the Secretary
3 of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary
4 of Labor. An employee who takes paid sick leave for (2) qualifying reason under EPSLA is entitled
5 to be paid at either their regular rate or the applicable minimum wage, whichever is higher, up to
6 \$511 per day and \$5,110 in the aggregate.

7 84. The EPSLA prohibits employers from discharging, disciplining, or in any other
8 manner discriminating against an employee who takes paid sick leave under the EPSLA.

9 85. At all times mentioned in this complaint, Defendant was employer and employed
10 fewer than 500 but more than 50 employees.

11 86. Plaintiff, as a full-time employee, qualifies for emergency paid sick leave of 80
12 hours since he was unable to work because he has been advised by a health care provider to self-
13 quarantine related to COVID-19.

14 87. Defendant failed and refused to comply with the EPSLA, as described hereinabove.
15 Defendant failed to guarantee Plaintiff's employment in the same or comparable position at the
16 end of emergency sick leave; and/or refused to hire, discharged, fined, suspended, expelled,
17 demoted, constructively discharged, refused to promote, failed to reinstate, discriminated against
18 and/or harassed Plaintiff because of Plaintiff's exercise of and/or attempts to emergency paid sick
19 leave rights under the EPSLA.

20 88. Plaintiff's exercise of his emergency leave rights due to concerns related to
21 COVID-19 was a motivating factor in Defendant aforementioned decisions that were adverse to
22 Plaintiff.

23 89. As a direct, legal, and proximate cause of Plaintiff's aforementioned protected
24 status, Defendants discriminated and harassed Plaintiff by engaging in the course of conduct set
25 forth in the General Allegations and all paragraphs stated above, amongst other things.

26 90. As a result of Defendants' above referenced discrimination, harassment, and
27 retaliation, Plaintiff has suffered and continues to suffer (a) substantial humiliation, serious mental
28 anguish, and emotional and physical distress; and (b) loss of past and future earnings, and

1 employment benefits and opportunities, on account of which Plaintiff is entitled to compensatory
2 damages. The exact amount and nature of such damages exceed the jurisdictional limits of this
3 court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint
4 upon ascertaining such information, or will prove the same at the time of trial.

5 91. As more fully set forth above, Defendant above referenced discrimination,
6 harassment, and retaliation was committed intentionally, maliciously, wantonly, and oppressively,
7 with a conscious disregard for Plaintiff's rights and with the intent to vex, injure, punish, and annoy
8 Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted to oppression and
9 malice, as described in California Civil Code § 3294. Plaintiff is therefore entitled to punitive or
10 exemplary damages in an amount sufficient to punish and make an example out of Defendant.

11 **NINTH CAUSE OF ACTION**

12 **FAMILY AND MEDICAL LEAVE DISCRIMINATION AND RETALIATION**

13 **AGAINST DEFENDANT VTI & DOES 1-25**

14 92. Plaintiff alleges and incorporates herein by this reference each and every allegation
15 set forth in all previous paragraphs of the Complaint.

16 93. Under the Fair Employment and Housing Act ("FEHA"), Government Code
17 §12940 et seq., and more specifically, the California Family Rights Act ("CFRA") as well as
18 FMLA, it is an unlawful employment practice for an employer to refuse to grant a request by any
19 employee to take up to 12 workweeks in any 12 month period for family and medical leave. It is
20 an unlawful employment practice for the employer to fail to guarantee, to each employee taking
21 family or medical leave employment in the same or comparable position at the end of the family
22 or medical leave. It is an unlawful employment practice for an employer to refuse to hire, to
23 discharge, fine, suspend, expel, discrimination or harass an employee because of an employee's
24 exercise of the right to family care and medical leave.

25 94. At all times mentioned in this complaint, Defendant VTI was employer and
26 employed more than 50 employees in a 75 mile radius of plaintiff's place of work.

27 95. Plaintiff's protected status under the FEHA is Plaintiff's exercise of and/or attempts
28 to exercise family and/or medical leave rights, and/or Plaintiff giving information and/or testimony

1 in an inquiry and/or proceedings related to rights guaranteed under the California Family Rights
2 Act. Plaintiff complied with all applicable notice requirements, if any, of Defendant VTI, and of
3 the California Family Rights Act.

4 96. Defendant VTI knew, perceived, and/or believed that Plaintiff had the
5 aforementioned protected status, described hereinabove.

6 97. Defendant VTI failed and refused to comply with the California Family Rights Act,
7 as described hereinabove. Defendant VTI failed to guarantee Plaintiff's employment in the same
8 or comparable position at the end of family or medical leave; and/or refused to hire, discharged,
9 fined, suspended, expelled, demoted, constructively discharged, refused to promote, failed to
10 reinstate, discriminated against and/or harassed Plaintiff because of Plaintiff's exercise of and/or
11 attempts to exercise family and/or medical leave rights under the California Family Rights Act.

12 98. Plaintiff's exercise of her/his medical leave rights due to serious health condition
13 was a motivating factor in Defendant VTI aforementioned decisions that were adverse to Plaintiff.

14 99. As a direct, legal, and proximate cause of Plaintiff's aforementioned protected
15 status, Defendants discriminated and harassed Plaintiff by engaging in the course of conduct set
16 forth in the General Allegations and all paragraphs stated above, amongst other things.

17 100. As a result of Defendants' above referenced discrimination, harassment, and
18 retaliation, Plaintiff has suffered and continues to suffer (a) substantial humiliation, serious mental
19 anguish, and emotional and physical distress; and (b) loss of past and future earnings, and
20 employment benefits and opportunities, on account of which Plaintiff is entitled to compensatory
21 damages. The exact amount and nature of such damages exceed the jurisdictional limits of this
22 court, but are presently unknown to Plaintiff, who will either seek leave to amend this Complaint
23 upon ascertaining such information, or will prove the same at the time of trial.

24 101. As more fully set forth above, Defendant VTI above referenced discrimination,
25 harassment, and retaliation was committed intentionally, maliciously, wantonly, oppressively, and
26 fraudulently with a conscious disregard for Plaintiff's rights and with the intent to vex, injure,
27 punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff. Such acts amounted
28 to oppression, fraud, and malice, as described in California Civil Code § 3294. Plaintiff is therefore

1 entitled to punitive or exemplary damages in an amount sufficient to punish and make an example
2 out of Defendant.

3 **TENTH CAUSE OF ACTION**

4 **RETALIATION FOR COMPLAINTS OF DISCRIMINATION AND HARASSMENT**
5 **AGAINST DEFENDANT VTI AND DOES 1 – 25**

6 102. Plaintiff re-alleges and incorporates herein by this reference each and every
7 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

8 103. In violation of California Government Code § 12940(h), Defendants retaliated
9 against Plaintiff by terminating Plaintiff's employment after he reported the seemingly increasing
10 events of discrimination and harassment against him, as more fully set forth in the General
11 Allegation and all paragraphs stated above, among other things.

12 104. As a direct and proximate result of Defendants' retaliatory actions against Plaintiff,
13 Plaintiff suffered and continues to suffer substantial (a) humiliation, serious mental anguish and
14 emotional and physical distress; and (b) loss of past and future wages, and employment benefits
15 and opportunities, on account of which Plaintiff is entitled to compensatory damages, the exact
16 amount and nature of which exceeds the jurisdictional limits of this court but is presently unknown
17 to Plaintiff, who will either seek leave to amend this complaint upon ascertaining such information,
18 or will prove the same at the time of trial.

19 105. As more fully set forth above, Defendants' retaliatory actions were willful, wanton,
20 malicious, and oppressive and committed with the intent to cause the injuries sustained by Plaintiff,
21 within the meaning of California Civil Code § 3294. Plaintiff is therefore entitled to punitive or
22 exemplary damages in an amount sufficient to punish and make an example of Defendant.

23 **ELEVENTH CAUSE OF ACTION**

24 **WRONGFUL TERMINATION AGAINST DEFENDANT VTI AND DOES 1 – 25**

25 106. Plaintiff re-alleges and incorporates herein by this reference each and every
26 allegation set forth in all previous paragraphs of the Complaint as if fully set forth herein.

27 107. Defendants violated the Fair Employment and Housing Act (FEHA), California
28 Government Code § 12940 et seq. by wrongfully terminating Plaintiff's employment because of

1 his age and disability.

2 108. Defendants terminated Plaintiff's employment in furtherance of its willful violation
3 of California Labor Code § 970, California Labor Code §§ 200, 226.8, and Business and
4 Professions Code § 17200 et seq., amongst other California laws, as more fully set forth in the
5 General Allegations above.

6 109. The aforementioned acts of Defendants constitute wrongful termination in violation
7 of public policy.

8 110. As a result of Defendants' wrongful conduct, Plaintiff has suffered and continues
9 to suffer from (a) substantial humiliation, serious mental anguish, emotional and physical distress,
10 (b) loss of past and future earnings, employment benefits and opportunities, which Plaintiff is
11 entitled to as compensatory damages. The exact amount and nature of such damages exceed the
12 jurisdictional limits of this court, but are presently unknown to Plaintiff, who will either seek leave
13 to amend this Complaint upon ascertaining such information or will prove the same at the time of
14 trial.

15 111. As more fully set forth above, the acts of Defendants were intentional, malicious,
16 wanton, and oppressive, with conscious disregard for Plaintiff's rights and with the intent to vex,
17 injure, punish and annoy Plaintiff so as to cause the injuries sustained by Plaintiff, within the
18 meaning of California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary
19 damages in an amount sufficient to punish and make an example out of Defendants.

20 **TWELFTH CAUSE OF ACTION**

21 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL**
22 **DEFENDANTS**

23 112. Plaintiff alleges and incorporates herein by this reference each and every allegation
24 set forth in all previous paragraphs of the Complaint.

25 113. Defendants engaged in age, disability, race, national origin, religious, gender, sex
26 discrimination, harassment and retaliation against Plaintiff, and aided and abetted each other in
27 engaging in illegal discrimination harassment, and retaliation thereby subjecting Plaintiff to the
28 intentional infliction of emotional distress caused by such discrimination and harassment in

1 violation of California Government Code § 12940.

2 114. Defendants failed to take immediate and appropriate remedial action to respond to
3 Plaintiff's complaints of discrimination and harassment. Instead, Defendant VTI ignored
4 Plaintiff's request that the behavior be dealt with and allowed Plaintiff to be subjected to retaliatory
5 action.

6 115. The acts of Defendants as described herein were extreme and outrageous and an
7 abuse of the authority and position of Defendants, and each of them. Such conduct was intended
8 to cause severe emotional distress, or was done with conscious disregard for the probability of
9 causing such distress. Such conduct exceeded the inherent risks of employment and was not the
10 sort of conduct normally expected to occur in the workplace. Defendant VTI and their employees,
11 the above-named individual Defendants, abused their positions of authority toward Plaintiff, and
12 engaged in conduct intended to humiliate Plaintiff and convey the message that he were powerless
13 to defend his rights.

14 116. As a proximate result of the aforementioned acts, Plaintiff has suffered
15 embarrassment, anxiety, humiliation, serious mental anguish, and emotional and physical distress.
16 Plaintiff will continue to suffer damages in a sum that exceeds the jurisdictional limits of this court,
17 but is yet to be ascertained. Plaintiff will either seek leave to amend this Complaint upon
18 ascertaining such information, or will prove the same at the time of trial.

19 117. As more fully set forth above, the acts of Defendants were intentional, malicious,
20 wanton and oppressive, with conscious disregard for Plaintiff's rights and with the intent to vex,
21 injure, punish, and annoy Plaintiff so as to cause the injuries sustained by Plaintiff, within the
22 meaning of California Civil Code § 3294. Plaintiff is therefore entitled to punitive or exemplary
23 damages in an amount sufficient to punish and make an example out of Defendants.

24 **THIRTEENTH CAUSE OF ACTION**

25 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL**
26 **DEFENDANTS**

27 118. Each of the above paragraphs contained in this Complaint is hereby incorporated
28 by reference at this point as if set forth herein full at length.

119. In carrying out the above conduct, Defendants, and their employees and agents, breached the duty owed to Plaintiff to provide a workplace free from discrimination, harassment, and retaliation, and abused their positions of authority towards Plaintiff. Said conduct exceeded the inherent risks of employment and was not the sort of conduct normally expected to occur in the workplace.

120. Defendants, and their employees and agents knew, or should have known that the above conduct would cause Plaintiff serious emotional distress. As a proximate result of Defendants negligent conduct, Plaintiff suffered and will continue to suffer extreme humiliation, embarrassment, anxiety, mental anguish, and emotional distress in an amount according to proof.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. Compensatory and actual damages in an amount to be proven at the time of trial;
2. For costs of the suit incurred herein;
3. For punitive and exemplary damages in an amount to be proven at the time of trial;
4. For reasonable attorneys' fees under the California Labor Code and all related statutes, including California Government Code § 12965(b); and Cal. Code of Civil Procedure § 1021;
5. For pre- and post-judgment interest at the prevailing statutory rates;
6. A declaratory judgment that the practices complained of in this Complaint are unlawful under California law;
7. An injunction against Defendants, their officers, agents, successors, employees, representatives, and any and all person acting in concert with them from engage in each of the practices complained of in this Complaint; and
8. For such other relief as the court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial for the causes of action set forth herein.

Dated: October 22, 2021

MESRIANI LAW GROUP
A PROFESSIONAL LAW CORPORATION

By:


CORY GOULD, ESQ.,
Attorney for Plaintiff ANDREW MENDOZA

EXHIBIT “4”

SUPERIOR COURT OF CALIFORNIA • COUNTY OF FRESNO Civil Unlimited Department , Central Division 1130 "O" Street Fresno, California 93724-0002 (559) 457-1900	FOR COURT USE ONLY 10/25/2021 Filed by Court
TITLE OF CASE: Andrew Mendoza vs. Valley Transportation, Inc.	
NOTICE OF CASE MANAGEMENT CONFERENCE AND ASSIGNMENT OF JUDGE FOR ALL PURPOSES	CASE NUMBER: 21CECG03163

To All Parties and their Attorneys of Record: Cory Gould
Mesriani Law Group
510 Arizona Avenue
Santa Monica CA 90401

This case has been assigned to **Rosemary McGuire**, Judge for **all purposes**.
All future hearings will be scheduled before this assigned judge, in **Department 502**

You are required to appear at a Case Management Conference on **02/22/2022** at **3:30 PM** in **Department 402** of the Court located at 1130 "O" Street, **Fresno, California**.

You must comply with the requirements set forth in the Superior Court of Fresno County, Local Rules, Chapter 2.

Failure to appear at the conference may result in imposition of sanctions, waiver of jury trial, or other adverse consequences.

Defendants: Appearance at the Case Management Conference does not excuse you from having to file your response in proper legal form within 30 days after the summons is served on you. Failure to file a response in a timely manner may result in adverse consequences, including a default judgment being entered against you. If you do not have an attorney and wish to retain one, there are attorney referral services, legal aid offices, and private practice attorneys in the Fresno area (most may be found on the internet or the local phone book).

DECLARATION

I declare under penalty of perjury under the laws of the State of California that I gave a copy of the **Notice of Case Management and Assignment of Judge for All Purposes** to the person who presented this case for filing.

Date: 10/25/2021 Clerk, by Jamie Nelson  , Deputy

EXHIBIT “5”

via E File

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY: NAME: Cory D. Gould (SBN 329550) FIRM NAME: Mesriani Law Group STREET ADDRESS: 510 Arizona Ave, Santa Monica, CA 90401 CITY: Santa Monica STATE: CA ZIP CODE: 90401 TELEPHONE NO.: 310-826-6300 FAX NO.: E-MAIL ADDRESS: cory@mesriani.com ATTORNEY FOR (Name): Andrew Mendoza		FOR COURT USE ONLY E-FILED 12/15/2021 10:35 AM Superior Court of California County of Fresno By: I. Herrera, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 1130 O Street Fresno, CA 93721 MAILING ADDRESS: 1130 O Street Fresno, CA 93721 CITY AND ZIP CODE: Fresno, 93721 BRANCH NAME: B.F. Sisk Courthouse Plaintiff/Petitioner: Andrew Mendoza Defendant/Respondent: Valley Transportation, Inc.; et al		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL		CASE NUMBER: 21CECG03163

TO (insert name of party being served): Defendant DEBORAH SIMPSON, an Individual

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: November 11, 2021

Cory D. Gould
 (TYPE OR PRINT NAME)


 (SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

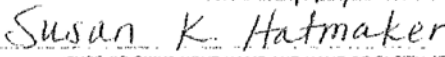
This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify):


Notice of Case Management Conference

(To be completed by recipient):

Date this form is signed: 12/11/2021


 (TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
 ON WHOSE BEHALF THIS FORM IS SIGNED)

Attorney for Deborah Simpson


 (SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
 ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

Attorney for Deborah Simpson

Page 1 of 1

EXHIBIT “6”

via E File

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY. STATE BAR NO: 329550 NAME: Cory D. Gould (SBN 329550) FIRM NAME: Mesriani Law Group STREET ADDRESS: 510 Arizona Ave, Santa Monica, CA 90401 CITY: Santa Monica STATE: CA ZIP CODE: 90401 TELEPHONE NO: 310-826-6300 FAX NO: E-MAIL ADDRESS: cory@mesriani.com ATTORNEY FOR (Name): Andrew Mendoza		FOR COURT USE ONLY E-FILED 12/15/2021 10:35 AM Superior Court of California County of Fresno By: I. Herrera, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 1130 O Street Fresno, CA 93721 MAILING ADDRESS: 1130 O Street Fresno, CA 93721 CITY AND ZIP CODE: Fresno, 93721 BRANCH NAME: B.F. Sisk Courthouse		
Plaintiff/Petitioner: Andrew Mendoza Defendant/Respondent: Valley Transportation, Inc.; et al		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL		CASE NUMBER: 21CECG03163

TO (insert name of party being served): Defendant VALLEY TRANSPORTATION, INC., a California Corporation

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

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Date of mailing: November 11, 2021

Cory D. Gould

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify):

Notice of Case Management Conference

(To be completed by recipient):

Date this form is signed: 12/1/2021Susan K. Hatmaker(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY,
ON WHOSE BEHALF THIS FORM IS SIGNED)

Attorney for Valley Transportation, Inc.

Susan K. Hatmaker(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF
ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

Attorney for Valley Transportation, Inc.

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
POS-015 [Rev. January 1, 2005]**NOTICE AND ACKNOWLEDGMENT OF RECEIPT — CIVIL**Code of Civil Procedure,
§§ 415.30, 417.10
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This Form button after you have printed the form.

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EXHIBIT “7”

via E File

POS-015

ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: 329550 NAME: Cory D. Gould (SBN 329550) FIRM NAME: Mesriani Law Group STREET ADDRESS: 510 Arizona Ave, Santa Monica, CA 90401 CITY: Santa Monica STATE: CA ZIP CODE: 90401 TELEPHONE NO: 310-826-6300 FAX NO: E-MAIL ADDRESS: cory@mesriani.com ATTORNEY FOR (Name): Andrew Mendoza		FOR COURT USE ONLY E-FILED 12/15/2021 10:35 AM Superior Court of California County of Fresno By: I. Herrera, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF FRESNO STREET ADDRESS: 1130 O Street Fresno, CA 93721 MAILING ADDRESS: 1130 O Street Fresno, CA 93721 CITY AND ZIP CODE: Fresno, 93721 BRANCH NAME: B.F. Sisk Courthouse		
Plaintiff/Petitioner: Andrew Mendoza Defendant/Respondent: Valley Transportation, Inc.; et al		
NOTICE AND ACKNOWLEDGMENT OF RECEIPT—CIVIL		
		CASE NUMBER: 21CECG03163

TO (insert name of party being served): Defendant RODNEY HEINTZ, an Individual

NOTICE

The summons and other documents identified below are being served pursuant to section 415.30 of the California Code of Civil Procedure. Your failure to complete this form and return it within 20 days from the date of mailing shown below may subject you (or the party on whose behalf you are being served) to liability for the payment of any expenses incurred in serving a summons on you in any other manner permitted by law.

If you are being served on behalf of a corporation, an unincorporated association (including a partnership), or other entity, this form must be signed by you in the name of such entity or by a person authorized to receive service of process on behalf of such entity. In all other cases, this form must be signed by you personally or by a person authorized by you to acknowledge receipt of summons. If you return this form to the sender, service of a summons is deemed complete on the day you sign the acknowledgment of receipt below.

Date of mailing: November 11, 2021

Cory D. Gould

(TYPE OR PRINT NAME)

(SIGNATURE OF SENDER—MUST NOT BE A PARTY IN THIS CASE)

ACKNOWLEDGMENT OF RECEIPT

This acknowledges receipt of (to be completed by sender before mailing):

- ☒ A copy of the summons and of the complaint.
- ☒ Other (specify):

Notice of Case Management Conference

(To be completed by recipient):

Date this form is signed: 12/11/2021Susan K. Hatmaker

(TYPE OR PRINT YOUR NAME AND NAME OF ENTITY, IF ANY, ON WHOSE BEHALF THIS FORM IS SIGNED)

Attorney of Rodney Heintz

Rodney Heintz

(SIGNATURE OF PERSON ACKNOWLEDGING RECEIPT, WITH TITLE IF ACKNOWLEDGMENT IS MADE ON BEHALF OF ANOTHER PERSON OR ENTITY)

Attorney of Rodney Heintz

Page 1 of 1

Form Adopted for Mandatory Use
 Judicial Council of California
 POS-015 (Rev. January 1, 2005)

NOTICE AND ACKNOWLEDGMENT OF RECEIPT — CIVIL

Code of Civil Procedure,
 §§ 415.30, 417.10
 www.courtinfo.ca.gov

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